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A
LETTER,

TO THE

MANUFACTURERS, AND INHABITANTS of the
Parishes of *Stoke, Burslem and Wolstanton*, in the County
of *Stafford*, on COURTS of REQUEST,

OCCASIONED

By the Bill intended to be brought into PARLIAMENT
this SESSIONS, for the Establishment of that
Jurisdiction in the POTTERIES;

BY

A MANUFACTURER.

James Caldwell.



A

LETTER,

TO THE

Manufacturers and Inhabitants, &c.

OBSERVING that a Petition has been presented to the House of Commons, for leave to bring in a Bill, for establishing a Court of Requests, or Court of Conscience, in the Parishes of *Stoke*, *Burslem* and *Wolstanton*; and apprehending that the nature of such courts is not in general sufficiently understood, I take the liberty of offering the few following observations upon the subject to your consideration, in order to guard you against being led, hastily and inadvertently, to adopt a Jurisdiction, which I conceive to be not only founded upon the most unjust and oppressive principles, but to be highly unfavourable to the real inte-

rests of manufacturers, as well as to the welfare, and happiness of the neighbourhood in general.

Courts of Request, or Courts of Conscience, are Courts constituted in particular districts, by special Acts of Parliament, for the purpose of facilitating the recovery of small debts. The benefit of them, (except so far as relates to the Clerk, and other followers of the Court,) is almost wholly confined to publicans, petty shop-keepers, and retailers of different descriptions, to whom they afford a very summary, certain remedy, against the poor and labouring part of the community. And from the former, they accordingly never fail to receive, the warmest encouragement and support. To persons of any other description, it is evident, that they can be of little use. The poor seldom lend; and the opulent, the charitable, and the humane, will rarely have recourse to a Court of Conscience.

Different provisions and regulations have been used, in the different Acts of Parliament which have from time to time been obtained for the establishment of these Courts; but the great principle is the same in all. According to this, in lieu of the ancient and valuable privilege of the trial by Jury, absolute discretionary powers over the property and personal liberty of individuals, are vested in a set of standing commissioners, who are authorized to summon the debtor before them—to examine in a summary way, upon the oath of the creditor himself—absolutely, and without appeal, to determine both upon the Law and Justice of the case—to award final execution, and either levy the debt and costs by

distress and sale of the debtors goods, or, what is still worse, commit him to a prison, for the paltry consideration of a shilling, or half a crown, and thereby preclude him from the exercise of that very industry, by which alone he can be enabled honestly to repay his creditor, and on which, perhaps, a wife and helpless family depend wholly for support.

For the exercise of these extensive, not to say unlimited powers, equally repugnant to the Constitution, and unknown to the common Law of *England*, no other qualification whatever is required, than that of a small pecuniary fortune; which, by a kind of parliamentary magic, is presumed to vest at once in its possessor, all the sagacity, integrity, and impartiality, requisite for the due discharge of the arduous and important office of a Judge; or what is still more, that of an *arbitrary distributor* of private justice.

It has not unfrequently been observed, that a despotic government would be the best, could we always be assured of having wise and good Kings. In like manner it might be acknowledged, that much of the objections to the arbitrary resolutions of Courts of Conscience would be done away, could we always depend upon the character and abilities of those, who may happen to preside in them. But, when it is considered, how few persons of consequence and independence are likely to take upon themselves, the troublesome, vexatious, and obnoxious office, of presiding over, or even of interfering in these Courts; and how few of the respectable class of manufacturers, possess the leisure, even if we would suppose them to have the inclina-

tion, to do it.—That by an almost necessary consequence, therefore, the powers of these Courts ultimately resolve themselves into the hands of those, who are influenced by views of private emolument and advantage; and that the qualifications required, not only absurd and inadequate in themselves, but depending wholly upon the oath of the party, leave a wide door open to the admission of men, who are equally incapable and unfit to be intrusted.—When we consider, too, the almost irresistible temptations to stretches and abuses of power, arising from local circumstances, and personal connections, animosities, partialities, and interests—And above all, the gross instances of folly, ignorance, and oppression, which those who will take the trouble to enquire, will find to characterize and disgrace the practice of these jurisdictions, it surely will not be denied, that the introduction of them, is a matter deserving of the most serious and deliberate consideration at least, if not of the most decided disapprobation of every friend to general liberty, and every lover of private justice.

But independent of these great, perhaps, unanswerable objections, to the *principle* of the thing, others of a different nature are not wanting. In manufactories, it may, I believe, be pretty safely affirmed, that one of the greatest evils is the extension of *petty credit* amongst the poor and working classes of people; as, by this means, not only the temptations to idleness and intemperance are increased, but the means are at the same time supplied. When a man is obliged to pay for what he has, it may generally be said, that what he spends, he must first have earned. In order

to get drunk he must first have been sober and attentive. In order to be idle, he must first have been industrious. The evil is by this means limited, and in some degree counter-balanced. Good habits are at the same time rendered indispensibly attendant upon bad ones, and a chance, at least, is preserved, that the former may in time predominate. But credit operates in a different manner. This looks, not merely to the money in hand, the actual produce of labour, the revenue or income, as I may call it, of the poor, but to the little *stock* or *principal* that they possess; And while a bed, a table, or a spoon remains, the creditor knows, that assisted by the all sweeping powers of a Court of Conscience, he can lay his hands upon it, and that he is so far secure. The consequences of this need not surely be pointed out. It is the interest of the publican and the trader to sell. Alehouse-scores, and petty wrangling accounts become multiplied without end.—The business of the Court of Conscience flourishes.—The emoluments of the Clerk increase.—Summons issues upon summons—Every eighteen penny debt, becomes the subject of a suit.—The workmen are hurried from their employment to attend the Court of Conscience—One man is committed to prison, another has a bailiff put into his house, a third has his goods distrained upon and sold,—and the whole country by these means, kept, in one continual ferment of legal vexation, oppression, and distress.

These are not the sallies of a lively imagination, or the suggestions of a prejudiced mind. With some knowledge of the subject, and some opportunities of judging, I

have conversed with intelligent, and well informed men, in manufactories and trading towns, where these jurisdictions have been established, and I have found their sentiments, almost invariably, to concur with my own.

It has been said, that Courts of Conscience by affording so summary a remedy against the poor, and the working manufacturers, intimidate, and make them fearful of contracting debts. I heartily wish experience would warrant us in allowing force to the argument. But whoever considers, or rather observes, the little prudence and foresight of this description of people,—acting always from impulse rather than reflection,—how little, when temptation and opportunity offer, it is in the power of any apprehensions of personal consequences, or any considerations of family distress, to restrain the force of strong propensions, or established habits, will, I think, agree with me, that little benefit is to be hoped for in this respect, even from the terrific form of oppression itself, acting in its own proper sphere, and armed with all its own proper powers,—those of a Court of Conscience. Besides, if this was the case, the practice of these Courts would become inconsiderable; whereas, I have been informed, that the emoluments of the Clerk to one of these Courts, in one commercial town, have been stated by himself, at not less than 400*l.* per annum. If we compare this amount with the smallness of the fees, we shall be enabled to form some idea of the almost infinity of business which must have been done.

The inconveniences, to which the Manufacturers themselves must also be exposed, from their men being liable to be taken off their work, and compelled, on every frivolous occasion, to attend a Court of Conscience, are too obvious to require mention. They are not only great, but they will be frequent; and such as cannot fail to be severely felt in a manufactory like ours, where the parts are so much connected and dependent upon each other, that an interruption in one, produces a temporary derangement of the whole. When trade is flourishing, and hands difficult to be supplied, deprive a manufacturer, for instance, of a clay-maker or a packer, and what mischief may it not occasion? In one case, his manufactory stops, perhaps, for want of materials; in the other, his correspondent suffers from the want of his goods.

Much has been frequently said, of the abuses existing in the County Court, and the necessity which these occasion, for a Court of Requests. Not to observe, that no great wisdom is discovered in attempting to correct one bad thing, by adding another to it; this argument, as far as it goes, seems to apply inversely. Every one, conversant with the subject, knows, that the constitution of the County Court is in itself good; inasmuch, as it makes use of the Trial by Jury, and is in other respects well calculated for the fair and impartial distribution of justice. It is from the *abuses* that have insensibly crept into the practice of this Court, that the evil so loudly, and indeed, so justly, complained of, springs. But if so much mischief results

from the abuse of a Court, which in its original principles and regulations, is favourable to the cause of justice; what may not be apprehended from the abuses of one, where no guard is preserved, but all is left to the arbitrary will, discretion, and caprice of individuals? And it will be remembered, that the great practical argument against these Courts is derived, from their extraordinary *tendency and liability to abuse*, owing to the arbitrary powers which they confer, and their easy admission of improper persons to the exercise of them. Too often, indeed, to such as know how to lie in wait for imprudence, take advantage of misfortune, and prey even upon the remains of poverty itself! So sensible were they of this in the populous County of *Middlesex*, that instead of adopting a Court of Requests, they wisely set about accomplishing a reform in the County Court. The experiment succeeded; and one, eminently qualified to judge, speaks of it as a plan, wanting only to be generally known, in order to its universal reception. At *Manchester, Nottingham, &c.* when attempts were made, similar to this in our manufactory, to introduce a Court of Requests, they immediately opposed, and defeated them.

Besides, taken even in the worst point of view, the County Court, is not without its advantages over a Court of Requests. In the same manner, that the summariness of the proceedings in the latter, promotes and encourages petty credit, the very delay and expence attending those of the former, tend to limit and restrain it. The creditor himself being liable to pay this expence, in case he should fail in his suit,

or the debtor should ultimately be unable to do it, will be proportionably careful not to expose himself to the chance on every trifling occasion. The debtors, too, are not compellable in the course of the proceedings to a personal attendance upon the Court ; and the very distance of the Court itself from the place, precludes much of the partiality and oppression arising from local interests and private considerations. On these accounts it has happened, that the practice of this Court, irregular and censurable as it may be, has never been productive of any very general, extensive, or alarming evil.

Many arguments in favour of Courts of Request, have, I understand, been drawn, from that established at *Birmingham*, and the admirable effects of it, as described by the Gentleman, who has for so many years presided in it ; and who is unquestionably a person of great merit and respectability. The opinions and representations, however, even of the wisest and the best, on any favourite topic, should be received with caution. Every man is said to have his hobby-horse ; and a Court of Requests seems to be that of the worthy Magistrate of *Birmingham*. I remember, a very respectable periodical publication, (the *Monthly Review*) speaking of the Book entitled. "Dissertation on "Juries," published in 1790, and which succeeded that entitled "The Court of Requests," makes the following observations. "It is no new thing for a man to be so far "enamoured of his mistress, as to be blind to all her defects ; and one of our comic writers has introduced his

“ here declaring, that he loved the object of his affections, not only in spite of her faults, but even *for* them. “ Mr. Hutton is something like this Gentleman. His long “ and constant attendance as a Commissioner, has given “ him the same bias towards Courts of Request ; and he is “ fond of his favourite, almost to idolatry.” Indeed, when Mr. Hutton in his zeal to assert her peerless excellence, is led to decry the use of the trial by Jury, and to depreciate the character of Blackstone ; when he gravely tells us, “ that he has longed for *Friday*, as the school boy for “ *Christmas*, nay the practice of years has not worn off the “ keen edge of desire,” we may safely pronounce him to be inflamed by the ardours of no common passion, and that it will be vain to look for another so true and enamoured a Knight.

By this, however, I intend no disrespect. All that I wish to shew is, that the Court of Requests at *Birmingham*, under the direction of such a man as Mr. Hutton, is an extraordinary case ; and that in matters of consequence, we should be careful not to mistake the singular instance, for a specimen of the general rule.

On the manner in which the intended Bill has been attempted to be hurried forwards, particularly as it relates to the parishes of *Burslem* and *Wolstanton*, I purposely forbear to remark. One thing, however, I think it right to observe ; which is, that when a person, not inconsiderably interested in the manufactory, and who from particular

circumstances, might reasonably be presumed to know something of the subject, wished to have brought it forwards for consideration, at the last meeting, held at *Wolstanton*, he was abruptly stopped and over-ruled, by being told,—that it had nothing to do with the business of the day,—that they were met to consider of other things, &c. &c. As if it were not better, that any opportunity should be taken, of publicly discussing and considering a matter of so much consequence, rather than that it should undergo, *no discussion or consideration at all*. A feature, by which it cannot but be acknowledged, that the intended Bill is but too remarkably distinguished.

To conclude,—Actuated by no other motives than such as spring from a sincere respect and regard for the neighbourhood at large,—a love of truth, liberty, and justice,—and that serious consideration, which every humane and reflecting man will never fail to bestow upon any measure, affecting the condition and situation of the poor and working class of people, I have been induced thus to state to you, as well as I knew how, the nature and general effects of Courts of Conscience. In doing this it has been my wish, “to extenuate nothing, nor set down aught in malice.” Materially interested as an individual in whatever concerns the welfare of the manufactory, and willing to embrace any opportunity of being useful, I have been desirous only to communicate to you that information which I myself have been enabled to obtain, in order that it may assist you in wisely and judiciously determining the important question now

remaining for your consideration, namely,—Whether you will suffer the intended Bill to be hastily proceeded in, or take measures to prevent its further progress? Should you resolve upon the latter, an opportunity will, I understand, be shortly afforded you, it being the determination of some very respectable persons in the neighbourhood, to present a Petition to the House of Commons against it; and which will, no doubt, be left open for general Signature.

4th. March, 1794.

ERRATA.

Title-page, for "Sessions" read 'Session.'

P. 5. l. 4, for "can" read 'could.'



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